

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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Case No.

LYNN ANDERSON,

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

Plaintiff,

-against-

COMPLAINT 1424
GARAUFIS, J.

NCO FINANCIAL SYSTEMS, INC.,

Defendant.

LEVY, M.J.

Plaintiff, by and through her attorneys, FAGENSON & PUGLISI, upon knowledge as to herself and her own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

INTRODUCTION

1. This is an action for damages brought by an individual consumer for defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq* which prohibits debt collectors from engaging in abusive, deceptive and unfair acts and practices. This action is also brought pursuant to New York General Business Law §349 ("NYGBL § 349") for defendant's deceptive acts and practices.

PARTIES

2. Plaintiff is a natural person residing in this District and is a consumer as defined by the FDCPA, § 1692a(3).

3. Upon information and belief, defendant is a debt collector, as defined pursuant to 15 U.S.C. § 1692a(6). Upon information and belief, the defendant is a foreign business corporation incorporated in Pennsylvania.

JURISDICTION AND VENUE

4. This Court has jurisdiction and venue pursuant to 15 U.S.C. § 1692k(d) (FDCPA) and 28 U.S.C. § 1331 and supplemental jurisdiction exists over the NYGBL § 349 claims pursuant to 28 U.S.C. § 1367.

AS AND FOR A FIRST CAUSE OF ACTION

5. Plaintiff re-alleges paragraphs 1 to 4 as if fully re-stated herein.

6. That sometime in or around the year 2009, the plaintiff's attorney, Fagenson & Puglisi, sent a letter to Directv, informing Directv that plaintiff was disputing the consumer debt alleged to be owed by plaintiff and that Fagenson & Puglisi represents plaintiff.

7. Thereafter, in response, Directv wrote a letter to Fagenson & Puglisi, acknowledging receipt of Fagenson & Puglisi's letter. A copy of Directv's letter is attached as Exhibit "1".

8. That, thereafter, defendant commenced collecting the debt for Directv.

9. That on or about March 2, 2010, defendant sent a collection letter directly to plaintiff in an attempt to collect the same alleged consumer debt. A copy of said letter is attached as Exhibit "2".

10. That, on information and belief, Directv did inform defendant that plaintiff is represented by an attorney in the matter of the collection of the debt. That defendant did know that plaintiff was represented by counsel.

11. That defendant's said letter to plaintiff constitutes improper direct contact with plaintiff with full knowledge that she is represented by counsel in the matter and is in violation of the FDCPA, including but not limited to § 1692c(a)(2). Said letter also

violates § 1692e(10), as a false representation or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer.

AS AND FOR A SECOND CAUSE OF ACTION

12. That plaintiff re-alleges paragraphs 1 to 11 as if fully restated herein.

13. That each of the deceptive and misleading acts and practices above-mentioned was committed in the conduct of a business, trade or commerce or the furnishing of a service in New York State and constitutes a violation of NYGBL § 349.

14. That defendant improperly contacted plaintiff with full knowledge that she is represented by counsel and in so doing violated NYGBL § 349.

15. That defendant is therefore in violation of NYGBL § 349(a) and liable to the plaintiff under NYGBL § 349(h).

WHEREFORE, plaintiff respectfully prays that judgment be entered against defendant as follows:

- (a) statutory and actual damages pursuant to 15 U.S.C. § 1692k in an amount to be determined at the time of trial;
- (b) statutory and actual damages pursuant to NYGBL § 349(h) in an amount to be determined at the time of trial;
- (c) enjoining defendant from further direct contact with plaintiff pursuant to NYGBL § 349;
- (d) reasonable attorney's fees, costs and disbursements pursuant to 15 U.S.C. § 1692k and NYGBL § 349(h); and
- (e) for such other and further relief as may be just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff requests trial by jury on all issues so triable.

Dated: New York, New York
March 24, 2010.

A handwritten signature in black ink, appearing to read "Novlette R. Kidd", is written over a horizontal line.

NOVLETTE R. KIDD, ESQ. (NK 9339)
FAGENSON & PUGLISI
Attorneys for Plaintiff
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New York, New York 10123
Telephone: (212)268-2128
nkidd@fagensonpuglisi.com

EXHIBIT "1"



June 1, 2009

LYNN ANDERSON
C/O FAGENSON & PUGLISI / STE 3302
NEW YORK, NY 10123-0101

Re: DIRECTV 28973041

Dear LYNN ANDERSON,

We received notification of your correspondence and appreciate the opportunity to respond to your concerns. You state that you do not owe the balance due in the amount of \$28,973,041.00. Our records indicate that we have not received your full payment for this account.

If you mailed a check or money order contact the bank or the office where the money order was purchased to verify the item has cleared. If the payment has cleared, please provide a legible copy of the front and back of the cashed money order, check or a copy of the bank statement reflecting the payment.

If an electronic payment (EFT) was made, please provide us with the banks trace number for the transaction and a complete checking account number or a copy of the bank statement reflecting the payment. Without this information we are unable to track the payment in question. Please mail the copy of your payment to the following address.

DIRECTV Customer Service
ATTN Payment Inquiry
PO Box 6550
Greenwood Village, CO 80155-6550

Sincerely,

DIRECTV Collection Department

EXHIBIT "2"

PO BOX 4906
DEPT 09
Trenton, NJ 08650



NCO FINANCIAL SYSTEMS, INC.

507 Prudential Road, Horsham, PA 19044

1-800-477-1827

OFFICE HOURS:

8AM-9PM MON THRU THURSDAY

8AM-5PM FRIDAY

8AM-12PM SATURDAY

Mar 2, 2010

Calls to or from this company may
be monitored or recorded for quality assurance.

10320-1938



QNW200

LYNN ANDERSON

STATEN ISLAND NY

CREDITOR: DIRECTV

REFERENCE #: 28973041

CURRENT BALANCE DUE: \$

SETTLEMENT OFFER

It's time to make headway with your finances and eliminate debt. Take the first step by accepting this offer.

We want to offer you a quick way to settle your account with a lump sum settlement of 45% off the current balance due. This offer may expire without notice. Before making payment, please confirm with one of our representatives that this offer has not expired.

If you are unable to take advantage of this offer, please call us at 1-800-477-1827 to speak to one of our trained representatives who will work with you to try and establish an alternative re-payment plan. Our representatives have successfully assisted individuals in similar financial situations and are available during the hours listed above.

Please be aware that in order to reactivate service with DIRECTV, the account must be paid in full. A settled account is not eligible for service reactivation.

Please make your check or money order payable to DIRECTV. To assure proper credit, please return the bottom portion of this letter, or a copy thereof, with your payment. Mail payment to: DIRECTV, P.O. Box 78626, PHOENIX, AZ 85062-8626.

You may also make payment online at directv.com.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This is a communication from a debt collector.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT (MAKE SURE ADDRESS SHOWS THROUGH WINDOW)

THIS COLLECTION AGENCY IS LICENSED BY THE
DEPARTMENT OF CONSUMER AFFAIRS OF THE CITY OF NEW
YORK; LICENSE#0907469
CONTACT ALEX DREW AT NCO FINANCIAL SYSTEMS, INC.

Reference #	Current Balance Due
28973041	\$

LYNN ANDERSON

Payment Amount

\$

Check here if your address or phone number has
changed and provide the new information below.

Make Payment To:

XX

DIRECTV

P.O. BOX 78626

PHOENIX, AZ 85062-8626

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